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Andrew Divaker ShamRao 2901 S. Michigan Ave., Suite 1703 Chicago, IL 60616			EXAMINER LU, KUEN S	
			ART UNIT	PAPER NUMBER
			2167	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

09/992,113

### Applicant(s)

SHAMRAO, ANDREW DIVAKER

### Examiner

Kuen S Lu

### Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendments***

1. In responding to Applicants' amendments made to the claims, filed on June 8, 2004, the amendment of claim 5, to overcome a 37 CFR 1.75 objection, has been considered by the Examiner.
2. As for claims 1 to 22, the Examiner has created a Final Rejection Office Action as shown next.
3. Please note the Examiner maintains his position in this Final Rejection Office Action the same as what in the original non-final Rejection Office Action of March 8, 2004, for rejecting claims 1-4 and 6-22. As per amended dependent claim 5, a new rejection, based on the same reference, has been incorporated in the Final Rejection Office Action.
4. As for the Applicants' REMARKS, filed on June 8, 2004, has been fully considered by the Examiner. For the Examiner's response, please see discussion in the section ***Response to Arguments***, following the Office Action for Final Rejection.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6, 9-15 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raverdy et al. (U.S. Publication 2002/0069243, hereafter "Raverdy") and in view of Kamper (U.S. Patent 6,654,797, hereafter "Kamper").

As per claims 1 and 22, Raverdy teaches the following:

"A method for downloading data from a server to a computer" at the Abstract by downloading event content information to the user device;

"transmitting user preference and computer configuration information to the server" at [0012] by the user preferably providing an appropriate device profile to the event server for identifying various specific configurations and functionalities of the user device and at [0058] by the profiles may include any information related to a system user of user device;

"determining applications that can be supported by the computer configuration" at [0012] by the server to preferably optimize services and content that is directed towards the particular system user and user device; and

"downloading only supported applications to the computer" at [0031] by the server to download appropriate content information or other types of services related to a particular user community.

Raverdy does not specifically teach "accessing user preferences from a Personal Universal Memory (PUM) card".

However, Kamper teaches using smart card to store and access configuration data at col. 3, lines 56-63.

It would have been obvious to one having ordinary skill in the art at the time of the

applicant's invention was made to combine Kamper's reference with Raverdy's teaching by implementing smart card device to Raverdy's system. The implementation would have enabled Raverdy's system to flexibly configure thin servers or clients with a minimum addition of a removable, modifiable, wireless-enabled and standardized hardware and interface device.

As per claim 2, Raverdy teaches "assigning a code to the application when a vendor subscribes to the service for hosting the application on the local server" at [0050] by executing application software depending on low-level functionality of user device where device content information preferably including various types of data.

As per claim 3, Raverdy teaches "selecting one or more applications when the user configures the user preference" at [0050] by user initially providing access code and other user data to the server which may responsibly send appropriate configuration information to effectively configure the user device.

As per claim 4, Raverdy teaches "storing codes for the selected applications" at [0051] where user data may preferably include any information pertaining to the utilization of user device.

Raverdy does not teach storing the information on a PUM card.

However, Kamper teaches storing configuration information on the smart card at col. 6, lines 43-47.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to combine Kamper's reference with Raverdy's teaching by implementing smart card device to Raverdy's system because by doing so

the configuration of thin server would have been more flexible and convenient since the configuration information is available from network.

As per claim 5, Raverdy teaches "wherein the computer is a mobile computer" at Page 1, [0008] by describing the user device may a portable device, and "selecting one or more applications when the user configures the user preference" at [0050] by user initially providing access code and other user data to the server which may responsibly send appropriate configuration information to effectively configure the user device.

As per claim 6, Raverdy teaches "authenticating the user" at [0012] by user login procedure.

As per claim 9, Raverdy teaches "requesting a user-identification and a password" at [0012] by user login procedure.

As per claim 10, Raverdy teaches checking user's references to identify applications to be downloaded at [0012] by preferably providing an appropriate profile information for the server such that the server can identify various specific configuration and functionalities of user device and responsibly downloading the information.

Raverdy does not specifically teach using PUM card for storing the profile information for downloading during the startup.

However, Kamper teaches storing configuration information on the smart card for downloading during the startup at col. 6, lines 43-47.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to combine Kamper's reference with Raverdy's teaching by implementing smart card device to Raverdy's system because by doing so

the configuration of thin server would have been more flexible and convenient since the configuration information is available from network.

As per claim 11, Raverdy teaches "sending a packet from the computer to the local server including: a. codes identifying the computer configuration" at [0012] by sending the device profile to the server for identifying various specific configurations; and "b. codes identifying user-preferred applications" at [0012] by sending user and device profiles to the server for identifying various specific functionalities for the user device.

As per claim 12, Raverdy teaches "requesting codes of applications and application components on the server that match the codes for user-preferred applications sent by the computer" at [0015] by user sending appropriate personality profile or character profile to the server and at [0058] where the profiles may include any information related to a system user or user device.

As per claim 13, Raverdy teaches "requesting codes of applications and application components on the server that match the codes for non-supported user-preferred applications sent by the computer" at [0058] where the profiles may include any information related to a system user or user device.

As per claim 14, Raverdy teaches "requesting information about the computer configuration necessary to support the applications and application components" at [0012] by sending the device profile to the server for identifying various specific configuration and at [0012] by sending user and device profiles to the server for identifying various specific functionalities for the user device.

As per claim 15, Raverdy teaches "requesting codes of applications and application components on the server that are supported by the computer's configuration" at [0012] by sending the device profile to the server for identifying various specific configurations and at [0072] by server preferably providing appropriate device application software for use for particular event or event location to user device..

As per claim 21, Raverdy teaches "the computer is selected from one of the following: a wired device, a wireless device, a personal digital assistant, a handheld computer, a laptop computer and a cellular telephone" at [0008] by describing the user device as a portable wireless telecommunication device.

7. Claims 7-8 are rejected are rejected under 35 U.S.C. 103(a) as being unpatentable over Raverdy et al. (U.S. Publication 2002/0069243, hereafter "Raverdy") and in view of Kamper (U.S. Patent 6,654,797, hereafter "Kamper"), as applied to claims 1-6, 9-15 and 21, and further in view of Tolopka (U.S. Patent 6,044,349, hereafter "Tolopka").

As per claim 7, the combined Kamper-Raverdy reference teaches downloading data from a server to a computer.

The combined reference does not specifically teach "performing a biometric scan to identify the user".

However, Tolopka teaches using biometric code stored on the smart card at col. 3, lines 38-42.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to combine Tolopka and Kamper's references with Raverdy's teaching by enabling smart card to carry biometric code of user because by



doing so the computer security would have been further enhanced and the utilization of smart card would have been further expanded and appreciated.

As per claim 8, Tolopka further teaches "checking for a match between a scanned image and a user identifiable image stored on the PUM card" at col. 3, lines 42-49 by biometric scanning of user before user's smart card is being utilized.

8. Claims 16-18 are rejected are rejected under 35 U.S.C. 103(a) as being unpatentable over Raverdy et al. (U.S. Publication 2002/0069243, hereafter "Raverdy") and in view of Kamper (U.S. Patent 6,654,797, hereafter "Kamper"), as applied to claims 1-6, 9-15 and 21, and further in view of MacInnis (U.S. Patent 5,951,639).

As per claim 16, the combined Kamper-Raverdy reference teaches downloading data from a server to a computer.

The combined reference does not specifically teach "notifying the user that one or more requested applications can not be supported without upgrading the computer hardware".

However, MacInnis teaches downloading software and modules and their compatibility requirements at the abstract.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to combine MacInnis and Kamper's references with Raverdy's by determining right version of software should be downloaded in order to be compatible with the hardware configuration because by doing so the software downloading would have been efficiently performed by avoiding bi-directional communication.

As per claim 17, MacInnis further teaches user option to select applications supported by the computer for download at Fig. 5, element 503 by selecting compatible version of modules to be downloaded.

As per claim 18, MacInnis further downloading items selected by user if the user opts to download supported applications and application components at Fig. 5, element 503 by selecting compatible version of modules to be downloaded.

9. Claim 19 is rejected are rejected under 35 U.S.C. 103(a) as being unpatentable over Raverdy et al. (U.S. Publication 2002/0069243, hereafter "Raverdy") and in view of Kamper (U.S. Patent 6,654,797, hereafter "Kamper"), as applied to claims 1-6, 9-15 and 21, and further in view of Makinson et al. (U.S. Publication 2003/0021280, hereafter "Makinson").

As per claim 19, the combined Kamper-Raverdy reference teaches downloading data from a server to a computer.

The combined reference does not specifically teach "scanning all data being downloaded to the computer with anti-virus software".

However, Makinson teaches scanning data file before it is passed to the user through the network bridge at Page 1, [0012].

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to combine Makinson and Kamper's references with Raverdy's because they all directed to information transfer where the threat posed by the virus to the network is increasingly common and complex. Anti-virus scanning of computer data is an important form of defense against such problems.

10. Claim 20 is rejected are rejected under 35 U.S.C. 103(a) as being unpatentable over Raverdy et al. (U.S. Publication 2002/0069243, hereafter "Raverdy") and in view of Kamper (U.S. Patent 6,654,797, hereafter "Kamper"), as applied to claims 1-6, 9-15 and 21, and further in view of Hodges et al. (U.S. Patent 6,035,423, hereafter "Hodges").

As per claim 20, the combined Kamper-Raverdy reference teaches downloading data from a server to a computer.

The combined reference does not specifically teach "the anti-virus software is automatically updated upon initial connection with the server".

However, Hodges teaches automatically updating the anti-virus software when the system is started at Fig. 4, element 404.

It would have been obvious to one having ordinary skill in the art at the time of the applicant's invention was made to combine Hodges and Kamper's references with Raverdy's because mal-ware is getting more complex and constantly being updated. The immediate and continuous update of new anti-virus software is an important form of defense against such problems.

11. The prior art made of record

- A. U.S. Publication 2002/0069243
- B. U.S. Patent 6,654,797
- C. U.S. Patent 6,044,349
- D. U.S. Patent 5,951,639
- E. U.S. Patent 6,035,423
- F. U.S. Publication 2003/0021280

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

G. U.S. Publication 2002/0052843

***Response to Arguments***

12. The Applicant's arguments filed on June 8, 2004 have been fully considered, but they are not persuasive. For the Examiner's response, please see discussion below.

a). **At Page 8** (page 7 is blank), regarding claims 1 and 22, the Applicant argued that the Raverdy reference (hereafter "the reference") does not teach the claim limitation "determining applications that can be supported by the computer configuration" by alleging that the reference's community services and community content are not equivalent to application software, the reference does not show the determination of application that can be supported (because of not talking about software application) and the reference does not operate or connect independent of the server.

As to the above argument a), the Examiner disagreed because of the following:

First of all, Applicant's application software and the reference's services and contents are software. Based on Microsoft Press® Computer Dictionary, 1997, Pages 27 and 431, both application and service are programs. By this token, service is equivalent to one form of application software. Thus the reference's receiving and analyzing profile from user device is "talking about software application". The reference supports the determination of application that can be supported by stating that the server receives and analyzes user profile and may optimize services and contents that is directed to the user or user device, as further evidenced by the cited section [0012]. Concerning

system operation, the reference is alleged does not operate or connect independent of the server. The reference does not require to connect dependently to server in order to operate, note that the reference states the system and method are intended for effectively providing user information from a user device may include, but not limited to a user device, ... and an Internet network, and the user device may configured as a portable wireless communications device (See Page 1, [0008]).

**b). At Page 6**, regarding claims 1 and 22, the Applicant argued that a prima facie case of obviousness has not been met for motivating the combination of Kamper and Raverdy references.

As to the above argument b), the Examiner disagreed because of the following:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, please refer to the Examiner's discussion below.

As the Examiner described in his response to argument item a), the Raverdy reference intends to provide a system and method such that information is effectively provided to the user, communication is bi-directional and the user device may be portable and wireless. It is fair to conclude that effectiveness of communication is one of

the most important elements of the reference. The Kamper reference extensively describes the configuration of removable storage device (smart-card, CD-ROM, optical disk and the like) to a computer system. It is fair to say Kamper reference has full heart on flexibility of component configuration. Based on the description of the BACKGROUND OF THE INVENTION of both references, the Examiner drew the conclusion that effectiveness of communication and flexibility of configuration from the references, respectively, would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention was made, motivated to combine the two references to provide a teaching equivalent to what the Applicant provided.

**c). At Page 10**, regarding claims 1 and 22, the Applicant argued that a prima facie case of obviousness has not been met for motivating the combination of Kamper and Raverdy references, a reasonable expectation of success of combining the references and suggestion or teaching of the combination.

As to the above argument b), the Examiner disagreed. As the Examiner described in his response to argument item b), it would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention was made, motivated, based on the teaching of the references and further suggested by the BACKGROUND OF THE INVENTION to, with a reasonable expectation of success, combine the two references to provide a teaching equivalent to what the Applicant provided.

**13.** Regarding claims 2-21, though the Applicant did not specifically address in the Remarks, the Examiner repeats the same grounds for the claims that rejected the claims 1 and 22.

14. In light of the forgoing arguments, the U.S.C 103 rejection for Claims 1-22 are hereby sustained.

***Conclusions***

**15. THIS ACTION IS MADE FINAL.**

The Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

If a reference indicated as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose telephone number is (571)-272-357 for faster service.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuen S Lu whose telephone number is 571-272-4114. The examiner can normally be reached on 8 AM to 5 PM, Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Kuen S. Lu

  
Patent Examiner

October 18, 2004



Luke Wassum

Primary Examiner

October 18, 2004